



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

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January 13th, 1999

Minutes of the January 13th, 1999, meeting of the Commission on Governmental Ethics and Election Practices held in the First Floor Meeting Room, PUC Building, 242 State Street, Augusta, Maine.

Present: Chairman Peter B. Webster; Members Linda W. Cronkhite, Harriet P. Henry (telephonically), G. Calvin Mackenzie, and Merle R. Nelson; Director William C. Hain, III; Counsel Phyllis Gardiner; and Candidate Registrar Dottie Perry.

Chairman Webster called the meeting to order at 9:05 a.m.

Agenda Item #1: Minutes

Mrs. Nelson moved, Mr. Mackenzie seconded, and it was unanimously voted to accept the minutes as prepared for the December 9th, 1998 meeting.

Agenda Item #2: City of South Portland v. Management Research & Development Association (MRDA)(Paul A. Volle, President)

The Commission addressed the issue of whether "*The Gay Agenda*" qualifies as an "other periodical publication" so as to exempt MRDA from the registration and reporting requirements because it is accepted from the definition of a political action committee under State law. Judge Henry expressed the opinion that some individual articles in the publication clearly qualified as "express advocacy," and that "*The Gay Agenda*" did not qualify as a "periodical" publication because it has only been published one time. Mrs. Cronkhite expressed the belief that the intent of the publication does not appear to be to teach, but rather to influence the votes of the document's readers.

Mr. Mackenzie reminded Members of his comments from the December meeting and of the dialogue he had with Mr. Volle concerning the attributes of "*The Gay Agenda*" as a newspaper. Mr. Mackenzie concluded from Mr. Volle's responses to those questions that, in Mr. Mackenzie's opinion "*The Gay Agenda*" is not a "newspaper" and that it is not an other "periodical" because it has only been published once. As a result, Mr. Mackenzie stated that he was reluctant to grant exceptional status to a document that did not appear to qualify.

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There being no further discussion, Mr. Mackenzie moved, Judge Henry and Mrs. Nelson seconded, and the Commission voted 4-0 (Chairman Webster abstaining) to find that MRDA had failed to meet the statutory requirements to register as a political action committee and to file the campaign finance reports required by State law, and to assess a forfeiture of \$250 as a consequence of that failure to register in accordance with the provisions of 21-A M.R.S.A. Section 1062-A(1). The Commission further directed Mr. Hain to communicate that decision to Mr. Volle and to inform him that MRDA must register as a political action committee and to file the required campaign finance reports not later than January 25th, 1999. No penalty for late filing of the campaign finance reports will be assessed provided that the required reports are received not later than that date.

Mr. Volle appeared on behalf of MRDA, but arrived at the meeting after completion of the Commission's discussion and decision on this matter. Chairman Webster advised Mr. Volle of the Commission's decision.

Agenda Item #3: Policy Statement on Acceptance of Gifts

Members discussed the draft document prepared by the staff, approved deletion of the fourth paragraph on page one, directed the addition of an introductory paragraph explaining the nature of the gift issue and the Commission's role in addressing that issue and a conclusory paragraph advising of the Commission's efforts to help facilitate a legislative remedy of the apparent conflict between the criminal code provision and the legislative ethics law, and authorized the distribution of the statement to inquiring Legislators upon review and approval thereof by Chairman Webster.

Agenda Item #4: Status Report on Penalties and Delinquent Filers

After a brief review of the status reports provided by the staff, Members directed Mr. Hain to forward the lists of outstanding penalties and delinquent filers to the Attorney General for appropriate action, with initial emphasis placed on the most flagrant offenders.

Agenda Item #5A: Maine Democratic State Committee

After initial briefing by Mr. Hain, Mr. Mackenzie moved, Mrs. Cronkhite seconded, and Members voted unanimously the staff recommendation to assess a penalty of \$740.79. Mrs. Nelson recommended that the staff consider Mr. Bowers' request for statutory changes regarding filing dates expressed in his letter dated January 11th 1999.

Agenda Item #5B: Brunswick Democratic State Committee

After initial briefing by Mr. Hain, Judge Henry moved, Mr. Mackenzie seconded, and Members voted unanimously the staff recommendation to waive the penalty due to lack of notice required by Section 1017-A(6). NOTE: Before the meeting was adjourned, Chairman Webster discovered that the staff recommendation on the agenda he had been provided differed from that on the others, and that he originally had voted on that different recommendation which provided



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for the assessment of a penalty. Mr. Hain explained the administrative error; following which Mr. Mackenzie moved, Mrs. Nelson seconded and Members unanimously voted to reconsider the original vote; after which it was moved, seconded and unanimously voted to adopt the staff recommendation to waive the penalty.

Agenda Item #6A: Late Lobbyist Disclosure Report of Douglas S. Carr

After initial briefing by Mr. Hain, Mrs. Nelson moved, Mr. Mackenzie seconded, and Members voted unanimously the staff recommendation to assess a penalty of \$50.00.

Agenda Item #6B: Late Lobbyist Disclosure Reports of Debra A. Hart

Chairman Webster excused himself from participation in the discussion and voting on this item due to a professional conflict of interest. After initial briefing by Mr. Hain, Mrs. Nelson moved, Mrs. Cronkhite seconded, and Members voted unanimously the staff recommendation to assess a penalty of \$200.00.

Agenda Items #7A & #7B: Pending Lawsuits

Mrs. Nelson moved, Mr. Mackenzie seconded and Members voted unanimously to go into executive session to hear a report by Counsel Gardiner regarding the status of the two lawsuits pending against the Commission challenging the lobbyist registration fees and implementation of the Maine Clean Election Act. At the conclusion of that briefing, Mrs. Nelson moved, Mr. Mackenzie seconded and Members voted to go out of executive session.

Discussion of scheduled agenda items having concluded, Mr. Hain briefed Members on the budget presentations made to the Joint Standing Committees on Appropriations and Legal and Veterans Affairs on January 11th and 12th, 1999.

On motion and unanimous agreement, the Commission adjourned at 10:55 a.m.

Respectfully submitted,

William C. Hain, III
Executive Director